

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

RUSTY FONTENOT : **CASE NO. 2:23-cv-00795**
VERSUS : **JUDGE JAMES D CAIN, JR.**
SENTRY SELECT INSURANCE
CO, ET AL. : **MAGISTRATE JUDGE LEBLANC**

MEMORANDUM ORDER

Before the court is a Motion to Compel Discovery Responses and for Costs and Attorney’s Fees, filed by Plaintiff, Rusty Fontenot. Doc. 34 (as supplemented by memorandum at doc. 37). The motion seeks an order compelling responses to Plaintiff’s Request for Admissions, Interrogatories, and Requests for Production from Defendant Fredi Marquino-Rubio, whose name is spelled Marquira-Rubio and Marquina-Rubio elsewhere in the record.¹ The discovery requests are attached to the motion. Doc. 34, att. 4. Defendant filed no opposition to the motion to compel, and the briefing deadlines have passed. Doc. 38. After considering the pleadings, the record, the argument of counsel, and the applicable law:

IT IS HEREBY ORDERED that Plaintiff’s Motion to Compel be and is hereby **GRANTED**, and, accordingly, it is:

FURTHER ORDERED that, **on or before April 30, 2025**, the defendant answering to the name Fredi Marquino-Rubio, Fredi Marquira-Rubio and/or Fredi Marquina-Rubio, will respond fully to the *Request for Admissions, Interrogatories, and Request for Production of Documents Propounded to the Defendant* [doc. 34, att. 4] that are the subject of the present motion. “[I]n the absence of good cause, when a party fails to object timely to interrogatories, production requests, or other discovery

¹ The petition names “Fredi Marquira-Rubio” as a defendant. Doc. 1, p. 3, ¶ 8. Defendant answered as Fredi “Marquina-Rubio.” Doc. 17. The discovery requests are directed to “Fredi Marquino-Rubio,” and define the term “You” as “Fredi Marquino-Rubio,” but use the spelling “Fredi Marquina-Rubio” in the body of the requests. Doc. 34, att. 4.

efforts, then any objections thereto are waived.” *Hargiss v. Princeton Excess & Surplus Lines Ins. Co.*, No. CV 3:22-00886, 2023 WL 6520536, at *3 (W.D. La. Apr. 21, 2023) (citing *In re: United States of America*, 864 F.2d 1153, 1156 (5th Cir. 1989); Fed. R. Civ. P. 33(b)(4)). Defendant has not responded to the Motion to Compel, and so the Court finds Defendant has not established good cause to excuse their failure to timely respond to discovery. Accordingly, Defendant shall make no objections, save as to specific objections on privilege grounds, and no documents or information may be withheld on any grounds other than a claim of privilege which, if made, must be made specifically, and accompanied by a privilege log.

Plaintiff moves for an award of expenses and attorneys’ fees pursuant to Fed. R. Civ. P. 37. Doc.


34. Under Rule 37, if a motion to compel is granted,

the court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant’s reasonable expenses incurred in making the motion, including attorney’s fees.

Id. Plaintiff claims that he is entitled to expenses and attorneys’ fees incurred in connection with this motion, and the court agrees. Accordingly, it is:

FURTHER ORDERED that Plaintiff shall submit an affidavit and any necessary documentation detailing what it claims to be owed as a result of Defendant’s noncompliance by **April 21, 2025**, to which Defendant may submit a response by **April 28, 2025**. Defendant’s response may address whether any factor set forth at Fed. R. Civ. P. 37(a)(5)(A)(i)-(iii) applies, such that an award of expenses and fees would be unjust.

THUS DONE AND SIGNED in chambers this 31st day of March, 2025.



THOMAS P. LEBLANC
UNITED STATES MAGISTRATE JUDGE